

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 4, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of August 4, 2004, was called to order by Mayor Hansen at 5:03 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land (arrived at 5:55 p.m.), and Mayor Hansen

Absent: Council Members – None

Also Present: Deputy City Manager Keeter, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); three cases
- d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- e) Actual litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM
- f) Actual litigation: Government Code §54956.9(a); one case; Lehman Brothers Inc., v. City of Lodi and Lodi Financing Corporation, United States District Court, Eastern District of California Case No. CIV-S-04-0850 FCD/JFM
- g) Actual litigation: Government Code §54956.9(a); one case; Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM
- h) Negotiate lease agreement for Lodi Station North Annex; negotiating parties are City of Lodi and Greyhound Lines, Inc.; Government Code §54956.8
- i) Conference with labor negotiator, Human Resources Director Joanne Narloch, regarding health insurance coverage provided to the following employee organizations: Association of Lodi City Employees regarding General Services and Maintenance and Operators; Lodi Police Dispatchers Association; Police Officers Association of Lodi; Lodi Professional Firefighters; International Brotherhood of Electrical Workers; Confidential Employees; and Management, Mid-Management, Fire Mid-Management, and Police Mid-Management employees pursuant to Government Code §54957.6

C-3 ADJOURN TO CLOSED SESSION

At 5:03 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:05 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:09 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a) through (i), there was no reportable action taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of August 4, 2004, was called to order by Mayor Hansen at 7:09 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: Deputy City Manager Keeter, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Captain Frank Severs, Lodi Salvation Army.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Boy Scouts of America Troop 291.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Steve Dutra, President of the Lodi Eagles Club, in celebration of its 100th Anniversary.

D-3 (a) Mayor Hansen presented a Certificate of Appreciation to Dan O'Hanlon, representing Kronick Moskovitz Tiedemann & Girard, for its legal guidance to the City of Lodi. Mr. Hansen commented that the firm stepped in at one of the most critical times that Lodi has ever faced and did so with the utmost integrity and reliability. Mr. O'Hanlon introduced Laci Henderson, a paralegal who devoted many hours to the case.

D-3 (b) Mayor Hansen presented Certificates of Recognition to Boy Scouts Zachery Eugene Winchester, Scott Edward Killian, and Devin Scott Mariana for obtaining the rank of Eagle Scout.

D-3 (c) Mayor Hansen presented Certificates of Appreciation to the following outgoing Chairperson and retiring members of the Greater Lodi Area Youth Commission.

Retiring members:

Katie Wagenman (and outgoing Chairperson)

Joseph Nardinelli

Courtney Cook

Karlyn Nieland

Mary Goad

D-3 (d) Youth Commissioners, Katie Wagenman and Joey Nardinelli, gave a presentation to the City Council regarding the Commission's 2003-04 accomplishments and noted that they now serve the following schools: Lodi High School, Tokay High School, Bear Creek, Liberty, Plaza Robles, Lodi Academy, Lodi Middle College at San Joaquin Delta, and Jim Elliott Christian.

D-3 (e) Captain Frank Severs gave a presentation in recognition of the many Salvation Army volunteers.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Hansen, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted:**

E-1 Claims were approved in the amount of \$7,176,156.78.

- E-2 The minutes of June 15, 2004 (Shirtsleeve Session), June 22, 2004 (Shirtsleeve Session), June 29, 2004 (Shirtsleeve Session), July 20, 2004 (Shirtsleeve Session), and July 20, 2004 (Special Meeting) were approved as written.
- E-3 “Accept the Quarterly Investment Account report as required by law SB 564” was **removed from the Consent Calendar and acted upon following approval of the Consent Calendar.**
- E-4 Adopted Resolution No. 2004-152 approving specifications, authorizing advertisement for bids, and further authorizing the City Manager to award or reject bids in an aggregate amount up to \$300,000 for steel streetlight standards and concrete streetlight standards as required during fiscal year 2004-05.
- E-5 Authorized advertisement for bids for the sale of surplus substation relay test equipment.
- E-6 Adopted Resolution No. 2004-153 awarding the purchase of three 15kV 600-amp horizontal sidebreak pole-top switches to the low bidder, Inertia Engineering, of Stockton, in the amount of \$5,799.11.
- E-7 Adopted Resolution No. 2004-154 awarding the contract for services to J&D Auto Body, Inc. to provide towing service for vehicle abatement from public and private property.
- E-8 Approved amendment to the Northeastern San Joaquin County Groundwater Banking Authority Joint Powers Agreement.
- E-9 Adopted Resolution No. 2004-155 authorizing the City Manager to execute an agreement between San Joaquin County Data Processing and the City of Lodi Police Department for an estimated annual cost of \$8,944.
- E-10 “Adopt resolution authorizing the reallocation of \$294,043.48 of unobligated Community Development Block Grant funds” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-11 “Adopt resolution recognizing San Joaquin County’s ‘Safely Surrendered Baby Campaign’ and designating fire stations as new ‘Safe Haven’ sites” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-12 Approved task order amendment in the amount of \$21,500 for West Yost & Associates for sphere of influence surrounding White Slough Facility.
- E-13 Authorized advertisement for transportation services for the Lodi Conference and Visitors’ Bureau Media Day and authorized use of buses should no alternate provider be willing to perform the service.

ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-3 “Accept the Quarterly Investment Account report as required by law SB 564”

NOTE: Due to a potential conflict of interest related to his employment with Farmers and Merchants Bank, Council Member Land abstained from discussion and voting on this matter.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Howard second, accepted the Quarterly Investment Account report as required by law SB 564. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Land

- E-10 "Adopt resolution authorizing the reallocation of \$294,043.48 of unobligated Community Development Block Grant funds"

Community Development Director Bartlam reported that each year staff reviews projects that have completed their block grant programs and ascertain if any projects have unspent monies. The east side park improvements came in significantly under budget and the funds will be reprogrammed to other east side park projects. The Lodi Lake trail project phase 2 of the ADA project came in nearly \$100,000 under budget, which can now be reprogrammed. The projects that are receiving funds include the Blakely and Hale Parks playground replacements, the Lodi LOOK Building, the after school program building at Lawrence School, the Elm Street parking lot project, the Salvation Army Center of Hope project, and some of the east side target area cleanup projects.

In reply to Mayor Hansen, Mr. Bartlam confirmed that this is not an open process where others can apply for the remaining funding. Monies that have not been spent are applied to projects that were previously approved.

Mr. Bartlam explained that the CDBG program is federally funded and specifically benefits persons of low and moderate income. Within the City of Lodi, there are census tracts which have a majority of the population that meet the income qualification. Those tracts are predominantly on the east side of Lodi; only one exists west of the Union Pacific Railroad tracks.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously adopted Resolution No. 2004-156 authorizing the reallocation of \$294,043.48 of unobligated Community Development Block Grant funds.

- E-11 "Adopt resolution recognizing San Joaquin County's 'Safely Surrendered Baby Campaign' and designating fire stations as new 'Safe Haven' sites"

In response to Council Member Hitchcock, Deputy City Manager Keeter reported that the Fire Department will handle the surrendering of a baby as they would any other type of medical emergency. They would immediately call for an ambulance and have the infant transported to the hospital emergency department.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously adopted Resolution No. 2004-157 recognizing San Joaquin County's "Safely Surrendered Baby Campaign" and designating fire stations as new "Safe Haven" sites.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Jerry Glenn announced that Lodi Adopt-A-Child is celebrating its 15th anniversary this year. The annual *Swing For A Child* golf tournament fundraiser is being held at Micke Grove Park on August 30.
- Ed Beswick, Member of the East Side Improvement Committee, thanked Mayor Hansen and Carla Cole, Crime Prevention Officer, for supporting the National Night Out event.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the Planning Commission's recommendation of approval of the request of KB Home for a rezone from R-MD, Residential Medium Density, to PD (36), Planned Development Number 36, for The Villas, an 80-lot medium-density single-family residential subdivision located at 449 East Harney Lane.

Community Development Director Bartlam stated that this public hearing was scheduled at the request of KB Home to change the zoning designation from Residential Medium Density to Planned Development (36) for property located at the northwest corner of Harney Lane and the Cherokee Lane frontage at Highway 99. The proposed project that has received Planning Commission approval is an 80-lot single-family detached subdivision that is under a planned development design. Flexible design standards were used in order to increase the density to achieve better efficiency of land use.

In answer to Council inquiries, Mr. Bartlam explained that Planned Development allows for the development standards within the zoning code to be modified. The project will have a public drive much narrower than the standard street section. Six unit courtyards will be created with a reduced setback in the front yard and smaller side yards. On-street parking is allowed on the standard public street, but not within the public lanes.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, unanimously introduced Ordinance No. 1751 amending the Official District Map of the City of Lodi and rezoning 449 East Harney Lane (APN 062-290-17) from R-MD, Residential Medium Density, to PD(36), Planned Development Number 36, for The Villas.

H. COMMUNICATIONS

- H-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously rejected the following claims:
 - a) Exponent, Inc., date of loss July 2003 through February 2004
 - b) G.R.A.P.E. Video Recording Company, date of loss January 2004
- H-2 Reports: Boards/Commissions/Task Forces/Committees – None
- H-3 Appointments – None
- H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 "Introduce ordinance repealing and reenacting Lodi Municipal Code §13.04.130 and establishing low-income discounts for water, sewer, and refuse services and adopt resolution establishing discounts"

Wally Sandelin, City Engineer, reported that for Council's consideration are proposed revisions to the Lodi Municipal Code establishing low-income discounts for water, sewer, and refuse service and adoption of the resolution setting the discount percentages. In previous discussions with the Council, the subject of providing a meaningful discount program for low-income residents was raised. In response to that discussion, staff recommends a change to the Municipal Code that would: 1) establish a discount program for water, sewer, and refuse collection, 2) establish eligibility criteria for discounts equal to those in use by the Electric Utility Department, and 3) set the percentage discount rates by resolution. The staff recommendation would create one set of eligibility criteria for City utilities discount programs. The amount of the discount could vary among the utilities as is reflected in the recommended resolution. The recommended discount percentages are presented in the staff report (filed). There would be a revenue offset in the adoption of the recommended discount program, which amounts to approximately 8 to 27 cents per user

per month. Central Valley Waste Services has reviewed the proposed discounts and has stated their concurrence with the discount program. Ongoing verification of eligibility would be handled by the Finance Department.

In reply to Council Member Hitchcock, Finance Director Krueger stated that applicants would be required to complete a form to verify their eligibility. He estimated that annual verification of 2,000 applicants at one hour each would require one additional staff person.

Council Member Land suggested that the re-verification be done every three years.

Mr. Krueger added that a cycling process could be instituted where one third of the applications were reviewed each year.

Mayor Hansen expressed support for a "spot check" on a three-year basis.

PUBLIC COMMENTS:

- Les Kreis stated that the rate increases have been a burden on him and many others in the community on a fixed income. He pointed out that the same Council Member who called the rate discount program "extortion" now supports a quarter cent sales tax increase measure. Mr. Kreis countered that, in his opinion, the sales tax increase is extortion. Mr. Kreis mentioned that he had been considering moving out of the state for lower housing and utility costs.

Mayor Pro Tempore Beckman stated that he had been able to assist other people in Mr. Kreis' situation and he hoped to do the same for him.

MOTION #1:

Mayor Hansen made a motion, Land second, to take the following actions:

- Introduce Ordinance No. 1750 amending Chapter 13.04 of the Lodi Municipal Code by repealing and reenacting Section 13.04.130, relating to low-income adjustments for residential water, sewer, and refuse collection service; and
- Adopt Resolution No. 2004-158 establishing low-income discounts for water, sewer, and refuse services.

DISCUSSION:

Council Member Howard supported the suggestion to conduct annual eligibility verification and felt that it should be applied to the City's current discount program for water, sewer, and refuse services. She expressed opposition to the motion for reasons stated when this matter first came to Council on June 2, 2004. Supporting the motion would increase the dollar amount that people receive and increase the eligibility, which Ms. Howard was not in favor of, as she felt the City's current program was adequate.

Council Member Hitchcock asked the maker of the motion to add that a spot check of 10% be done every year, to which he agreed.

AMENDED MOTION:

- Introduce Ordinance No. 1750 amending Chapter 13.04 of the Lodi Municipal Code by repealing and reenacting Section 13.04.130, relating to low-income adjustments for residential water, sewer, and refuse collection service; and
- Adopt Resolution No. 2004-158 establishing low-income discounts for water, sewer, and refuse services **and directing staff to institute a verification program whereby every three years 10% of one-third of the applicants' eligibility is re-confirmed.**

VOTE:

The above amended motion carried by the following vote:

Ayes: Council Members – Hitchcock, Land, and Mayor Hansen

Noes: Council Members – Beckman and Howard

Absent: Council Members – None

RECESS

At 8:43 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 8:55 p.m.

I. REGULAR CALENDAR (Continued)

- I-2 “Adopt resolution authorizing the City Manager to allocate various funds for the Lodi Customer Assistance & Relief Energy (CARE) Package Program and authorizing the City Manager to execute a contract with the Salvation Army to administer this program (\$105,000)”

Rob Lechner, Manager of Electric Utility Customer Services & Programs, reported that the start date for the proposed Lodi CARE Package Program would be September 1, 2004. It would have a budget of \$105,000 and would provide a maximum Lodi Utility bill relief payment of \$125. The CARE Package program is designed to assist Lodi residents that are below the existing federal income guidelines. Eligible customers may receive a relief payment once every six months. To confirm eligibility, customers must present in-person the following:

- Current City of Lodi utility statement;
- Social security cards for all members of the household;
- Driver's license or California identification card of the person listed on the utility account;
- Proof of income;
- Copy of rental agreement (if applicable);
- Proof of unexpected expenses resulting in the inability or hardship of paying City of Lodi utility account; and
- City of Lodi receipt for customer's co-payment (if applicable).

Mr. Lechner stated that customers must also consent to a free, in-home energy audit once their relief payment has been approved. He reported that the CARE Package income guidelines are as follows:

- 1-2 people – maximum of \$16,000
- 3 persons – maximum of \$20,000
- 4 persons – maximum of \$25,500
- 5 persons – maximum of \$31,000
- 6 persons – maximum of \$36,500

Council Member Hitchcock suggested that an eligibility process similar to the Finance Department's be instituted, with verification done using income tax returns.

Council Member Howard asked that when this matter returns to Council for review that it consider how many people utilized the service twice during the 12-month period. She recommended that wording be added setting restrictions on how many times it can be used and that Council consider only using the dollar amount that can be provided by the public benefits program, which would be \$60,000 versus \$105,000.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Hitchcock second, adopted Resolution No. 2004-159 authorizing the City Manager to allocate various funds in the amount of \$105,000 for the Lodi CARE Package Program and authorizing the City Manager to execute a contract with the Salvation Army to administer this program; directed staff to provide a progress report to Council in 12 months; and directed staff to modify the eligibility program to be similar to the low-income discount program for water, sewer, and refuse services. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – Beckman

Absent: Council Members – None

- I-3 “Authorize Mayor Hansen to negotiate a contract for the services of an executive search firm for purposes of recruiting a new City Manager for the City of Lodi”

Mayor Hansen reported that he received the following proposals from executive recruitment firms:

- Bob Murray & Associates, Roseville – \$24,000; 10 to 12 week recruitment
- CPS Executive Search, Sacramento – \$25,500; 12 to 16 week recruitment
- The Davis Company, Sacramento – \$24,000; 11 to 12 week recruitment
- Wilcox Miller & Nelson, Sacramento – \$19,000; 12 week recruitment

Discussion ensued regarding the merits and drawbacks of public involvement in the recruitment process, following which it was generally agreed to accept the recommendation from the professional search firm.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously authorized Mayor Hansen to negotiate with the firms of 1) CPS Executive Search and 2) Bob Murray & Associates regarding a contract and process for recruiting a new City Manager and to make a recommendation to Council on August 18, 2004.

- I-4 “Discussion and appropriate action regarding adoption of resolution electing to withdraw from the CalPERS Medical Program (Public Employee's Medical and Hospital Care Act)”

NOTE: Due to a potential conflict of interest related to her husband's employer, Council Member Howard abstained from discussion on this matter and vacated her seat at the dais.

City Attorney Schwabauer reported that Mayor Hansen does not have a conflict of interest in this matter because of the Fair Political Practices Commission (FPPC) exception for salaries and benefits of public employees. Council Member Hitchcock does not have a conflict of interest from her husband's eligibility for health insurance through the City, due to the same FPPC exception, as well as the fact that the benefit would not be in excess of \$250 a year.

Curtis Howard, CalPERS Chief of the Office of Employer and Member Health Services, distributed information related to its health benefits program (filed) and reported that it represents over 1.2 million members. CalPERS is the largest provider of health care benefits in the state and third largest in the nation. He explained that CalPERS had asked all of its providers to provide a statewide rate for all the members, which was established as the base rate. CalPERS then looked at regions and the cost of care utilized by its members in the local agencies and rated them according to how much of the cost of care they were contributing to the total overall cost. In some areas the providers were able to provide benefits at a lower cost because of competition, so they reduced the cost to CalPERS as a whole and the utilization of the members was lower. CalPERS combined

the counties in four regional areas within the state and one out of state area. The providers then rated the entire pool. The overall rate increase was 9.9%. Mr. Howard stated that a lot of contracting agencies in the southern part of the state, where costs are lower, were considering leaving the program. CalPERS had 37,000 contracting agency employees who left last year and the result on the overall pool cost was a 1.1% increase. He explained that the contracting agencies in the southern part of the state were paying a disproportionate cost for their share of benefits. On May 18, a decision was made to regionalize. Prior to this, northern California counties were subsidized by the lower cost of care in southern California.

In answer to Council inquiries, Mr. Howard pointed out that when considering the cost of providing healthcare benefits, Council also needs to consider administrative responsibilities, e.g. management of enrollment, printing of materials, legal fees, contract negotiation, broker administrative fees, etc. CalPERS currently provides all these administrative functions for a fee of .44%. He stated that now that regional rating has been instituted, future years will not have the same "draconian" impacts. He explained that the reason CalPERS extended the time period from two to five years before a member can return to the pool after withdrawing was to protect the pool rating. Members need to consider the impact of their decision and be willing to face market pressures on their own for an extended period of time. He acknowledged that CalPERS has been asked to develop criteria for exceptions to this time period, which he expected to go before the Board for consideration in September. In reference to utilization information, Mr. Howard stated that it is the policy of CalPERS that it is protected, proprietary information. Under the federal Health Insurance Portability and Accountability Act (HIPAA) regulations, specific medical information about individuals cannot be provided. He stated that an employer organization would have to have over 20,000 members for CalPERS to feel there were enough safeguards to provide utilization information to an employer.

Mr. Howard reported that the City's Blue Shield rate increased by 23%, Kaiser increased 16%, PERSChoice increased 5.82%, PERSCare increased 13%, and PORAC increased 1.8%. CalPERS capped the regionalization proposals for other northern counties at 11% above the state rate. He asserted that CalPERS' ability to control cost is much more effective than an organization of 1,200 employee/members could negotiate on its own.

Terri Ezaki of ABD Insurance & Financial Services stated that the rates provided by PacifiCare included administrative costs. PacifiCare has provided a guarantee for 2006 that the rates would not exceed those of CalPERS as long as there were no changes to the benefit design and that regional rates stay in place. The Kaiser quote is slightly above the rates from CalPERS.

In response to Council Member Hitchcock, Ms. Ezaki reported that the benefit designs quoted from PacifiCare, Kaiser, and Aetna were as close to the benefit designs of CalPERS that could be obtained in the open market. Provider access would change if the City withdrew from CalPERS. Blue Shield has a direct arrangement with Lodi Primary Care Physicians, which allows them to direct their specialty care to the Blue Shield PPO network. PacifiCare has an agreement with various medical groups in the community including Medcore, Sutter Gould, and Delta IPA. Lodi Primary Care physicians are presently contracted with Medcore and are required to refer specialty care, e.g. radiology, laboratory, etc. to providers who are contracted with Medcore.

Jacqueline Foster, Accounts Manager with Blue Shield, commented that it has 1,500 employees at its call center in Lodi who are going to the same providers that City employees use. She stated that Blue Shield has a strong commitment to Lodi.

Mr. Howard offered to provide a resolution for withdrawal from CalPERS, as well as names of cities that have withdrawn previously and have since experienced significant medical insurance rate increases and wish to return to CalPERS.

Heidi Duncan, Senior Business Manager with PacifiCare, stated that it provides disease management programs, which would have an impact on utilization. She explained that because utilization information cannot be obtained from CalPERS, PacifiCare's rating methodology was based on average health care cost in the area and made the assumption that with 1,200 members the City would be close to average based on demographics.

In response to Council Member Hitchcock, Ms. Ezaki reported that the City's age and sex factor is within normal ranges; however, it does run a risk because it will be experience rated in the future.

Mayor Hansen stated that Council would likely vote on this matter at a Special meeting next Tuesday.

MOTION / VOTE:

No Council action was taken on this matter.

I-5 "Discussion and appropriate action regarding the appointment of an Interim City Manager"

Mayor Hansen stated that he had been in contact with League of California Cities consultants who provide services for interim city managers. He noted that Deputy City Manager Keeter had expressed an interest in serving as interim city manager.

Council Member Land expressed support for Ms. Keeter serving in the capacity of interim city manager.

Council Member Hitchcock was concerned that less people would apply for the position of city manager if Ms. Keeter were appointed as the interim.

Council Member Howard voiced support for appointing Ms. Keeter as interim city manager.

Mayor Pro Tempore Beckman agreed with Ms. Hitchcock, noting that it might appear to potential city manager candidates that Council had already made a selection. Additionally, the resignation letter Council received from Dixon Flynn also pointed toward a bias. Mr. Beckman wished to avoid any action that would cast a "taint" on the recruitment process. He stated that appointing an outside interim city manager would keep Ms. Keeter from any perceived improprieties and protect everyone concerned.

MOTION:

Council Member Land made a motion, Howard second, to appoint Janet S. Keeter as Interim City Manager until such time as a City Manager is hired.

DISCUSSION:

Council Member Hitchcock stated that she would vote against the motion because she did not wish it to appear that Ms. Keeter's appointment affects the recruitment process.

Mayor Hansen commented that he shared the concerns expressed by Ms. Hitchcock and Mr. Beckman. He would make it clear to the executive search firm that the City wants the best possible candidate to serve as city manager and encourages everyone to apply.

Addressing Ms. Keeter, Mayor Pro Tempore Beckman commented that former City Manager Flynn abruptly resigned ostensibly so that he could run for city council member in the upcoming election. There was a great deal of concern about Mr. Flynn serving as city manager while running for council member and Mr. Beckman suggested that serving as an interim city manager and applying for the city manager position might carry a similar stigma.

Deputy City Manager Keeter stated that she believed the recruitment for the position of city manager would elicit a lot of applications. She opined that the reason there were so few applicants in the recent recruitment for city attorney was because the position was paid under market. She felt that applicants may have been "scared away" due to environmental litigation problems, the former city attorney having been fired, and two council seats being open in November.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – Hitchcock

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Beckman, Hitchcock second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

I. REGULAR CALENDAR (Continued)

- I-6 "Consider 1) adoption of an urgency ordinance imposing a ¼-cent sales tax subject to approval of a majority of the Lodi electorate; 2) adoption of a resolution submitting a ¼-cent sales tax initiative and companion advisory measure to a vote of the electorate of the City of Lodi on November 2, 2004, setting priorities for filing written arguments, and directing the City Attorney to prepare an impartial analysis; and 3) approval of a special allocation of \$10,000 to the Elections Fund"

Interim City Manager Keeter explained that the proposal before Council is a quarter cent sales tax increase for a period of ten years. Council must first adopt an urgency ordinance imposing the tax subject to approval by a majority of the electorate. The initiative calls for the assessment of a general tax and once levied it can be used for general governmental purposes. If it were specific to projects or operating expenses, it would require a supermajority vote. The initiative proponents have also proposed an advisory measure with a list of projects. The cost to the City to place this measure on the November ballot would be up to \$10,000.

PUBLIC COMMENTS:

- John Johnson recalled that three people met on June 14 to discuss whether or not it would be feasible to collect enough signatures to qualify the initiative for placement on the ballot. On July 26, he received a call from Council Member Beckman offering an opportunity for this matter to be placed on the Council agenda. Since that time, proponents have raised money and hired an attorney to draft the ordinance. Mr. Johnson stated that if the measure was passed it would raise \$2.2 million in the first year and could bring in excess of \$25 million over the full ten-year period. There is a companion advisory measure for voters to say how the Council should spend the money, i.e. on a new animal shelter, aquatics facility, indoor sports center, remodeling Fire Station 2, a new Fire Station in southeast Lodi, and paramedics on fire trucks. Mr. Johnson stated that prior to the first meeting he had called the Police Chief and Fire Chief to ask them what they wanted. Chief Adams stated that he wanted a new animal shelter. Mr. Johnson then spoke with Sue Pixler and representatives of Animal Friends Connection. Firefighters chose remodeling Fire Station 2, a new Fire Station in southeast Lodi, and paramedics on fire trucks. Mr. Johnson stated that if Council votes against this request tonight, he was confident that enough signatures could be obtained to qualify for a special election.

Council Member Land expressed concern that if Council placed the measures on the ballot and it failed by a large number, it would negatively affect the City's list of priority projects.

Council Member Hitchcock believed it would set a terrible precedence to bypass the process established by law (i.e. collecting an adequate number of signatures on the initiative petition) and instead have Council place the proponents' measure on the ballot.

Mayor Pro Tempore Beckman pointed out that the difference between this and the Large-Scale Retail Initiative is that passing a sales tax increase is a matter that Council does not have the authority to do; it requires a vote of the people. The estimated cost for placing the measure on the November ballot would be up to \$10,000 and it would cost the City \$100,000 if it later qualified for a special election. Mr. Beckman noted that if it is placed on the ballot he would personally vote against it.

Council Member Howard shared Ms. Hitchcock's concern regarding the procedure and felt it was important that initiatives go through the typical steps and signature collection process. In addition she felt that urgency ordinances should be for issues that are a true risk to the community, which this matter did not apply.

- Sue Pixler, Chairperson of the Animal Shelter Task Force, stated that it has not yet met and taken a position on the proposed initiative. Speaking as a concerned citizen, Ms. Pixler stated that the Animal Shelter and its responsibilities are a statutory obligation of a municipality, not an option. She emphasized that the current shelter is inadequate and out of compliance.

MOTION / VOTE:

Mayor Pro Tempore Beckman made a motion to adopt an urgency ordinance imposing a ¼-cent sales tax subject to approval of a majority of the Lodi electorate on November 2, 2004. The motion **died** for lack of a second.

John Johnson stated that since signatures will now have to be collected to qualify the measure, the preference will be to raise the sales tax for specific projects and Council will have no discretion on how the revenue is spent.

- I-7 "Approve Special Allocation for expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation (\$188,010.18)"

City Attorney Schwabauer asked to remove item 1, Barger & Wolen invoice in amount of \$98,836.20 from consideration, as he and Mayor Hansen would be meeting with the firm tomorrow to discuss the matter. Item 2 pertains to costs related to professional services provided by Kronick Moskowitz Tiedemann & Girard (KMTG). Item 3 is for mediation services provided by JAMS, which will be submitted to USF&G for reimbursement. Item 4 represents costs associated with expert witness testimony for Guild's consultants. Item 5 is for photocopy services related to San Joaquin County court records.

Interim City Manager Keeter noted that the staff report is in error, as a special allocation is not needed.

Mr. Schwabauer explained that the portion of the costs being deducted from the City Attorney's account is for general legal advice obtained from KMTG unrelated to the Environmental Abatement Program litigation. All other costs should be split equally between the Water and Wastewater Funds.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$89,173.98 to be deducted equally from the Water and Wastewater Funds.

- I-8 "Council discussion and appropriate action regarding a proposed amended and restated contract for legal document services (docket clerk) with Kronick, Moskovitz, Tiedemann & Girard to assist with the Environmental Abatement Program litigation and/or proposed alternatives" was ***continued to the meeting of August 18, 2004.***

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard recognized Dixon Flynn and thanked him for his years of service as Lodi's City Manager.
- Council Member Land also thanked Dixon Flynn and stated that he was a city manager of accomplishments. In recognition of National Night Out, he thanked Brooke Leoni, the nine year old block captain of Frontier Lane, Carla Cole of the Police Department for coordinating the event, Public Works for issuing the permit to block off the street, George Bradley for bringing the barricades, and Police and Fire Chiefs for attending, as well as the Partners, the canine unit, and Lodi Fire Department.
- Council Member Hitchcock congratulated Council Member Howard on the birth of her baby girl on July 21 and for her work ethic and dedication to the City.
- Mayor Hansen announced that a farewell reception for Dixon Flynn has been planned for September 2.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- Interim City Manager Keeter thanked Council Members for their vote of confidence in her. Ms. Keeter stated that she had a vacation planned for next week and would appoint an acting interim city manager during her absence.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:08 a.m., Thursday, August 5, 2004.

ATTEST:

Susan J. Blackston
City Clerk